THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.16011 OF 2006

DATED: 18-12-2006

Between :

Borra Anil Kumar .. Petitioner

And

1. The Deputy Commissioner of Proh. & Excise, Gunadala, Vijayawada., and another. ...Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.16011 OF 2006

ORDER :

This writ petition is filed seeking a declaration that the alleged action of the 1st respondent – Deputy Commissioner of Prohibition & Excise, Gunadala, Vijayawada in interfering with peaceful possession of the petitioner at the instance of the 2nd respondent as arbitrary and illegal.

It is stated that the petitioner is a lease-holder of the premises bearing No.41-29-54/55, Ranigarithota, Krishnalanka, Vijayawada wherein he has been running a Bar and Restaurant. The lease is subsisting upto 17-2-2009. When the 2nd respondent attempted to interfere with his possession on 26-7-2005, the petitioner filed O.S.No.1659 of 2005 in the Court of Principal Junior Civil Judge, Vijayawada and a decree was granted against the 2nd respondent on 23-3-2006. It is alleged that thereafter at the instance of the 2nd respondent, the staff of the 1st respondent has been interfering with the possession of the petitioner in respect of the premises bearing No.41-29-54/55. It is also alleged that the 1st respondent had granted a licence in favour of third parties in respect of the very same premises wherein the petitioner has been carrying on business.

This Court while directing notice to the respondents, ordered that the possession of the petitioner in respect of the premises in question shall not be disturbed without following due process of law.

A counter-affidavit has been filed by the 1st respondent stating

that one Nathani Rajasekhar applied for bar licence and while the same was under consideration the petitioner filed O.S.No.1659 of 2005 on the file of the Court of Principal Junior Civil Judge, Vijayawada, and a decree passed by the said Court was communicated to the Department. It is further stated that the officials of Prohibition & Excise Department never claimed any right over the premises in question and the licence was granted in favour of Sri Nathani Rajasekhar at a different premises bearing Door No.41-29-52 which has nothing to do with the premises in question. All other allegations made by the petitioner have been denied.

From the above counter-affidavit, it is clear that the allegations of the petitioner are unfounded.

Accordingly recording the statement of the respondents that the 1st respondent is not interfering with the possession of the petitioner in respect of his licensed premises in any manner whatsoever, the Writ Petition is disposed of. No costs.

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G. ROHINI, J.

Dt. 18-12-2006

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